

SWEDEN: MULTICULTURALISM AND SPECIFICS OF RELIGIOUS FREEDOM'S REALIZATION IN SECULAR STATE

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Sweden has a long history of being a monoconfessional state. However, in the 20th – 21st centuries the composition of Swedish society has changed, leading the country into a crisis caused by the policy of ignoring the needs of ethnic and religious minorities. In recent years, multidisciplinary research works have been focused on finding a ground of the current social and political destabilization in this country caused by on-going religion- and ethic-based conflicts between its nationals. Some of them suggest that Sweden is not a secular but a clerical state, others – that there is a gap in its legislation.

The author of the article offers another point of view, according to which, the Swedish law enforcer distorts the constitutional and legal meaning of the provisions on religious freedom that occurs under the influence of historical specifics of the development of Swedish law, hence the lack of uniformity in law enforcement practice for the implementation of this fundamental human right.

The subject of the study is the norms of the legislation of Sweden, including historical legal acts and documents, as well as relevant court cases and key findings of domestic and foreign research works.

Objective: to prove the influence of historical specifics of the development of Swedish law on the current legal enforcement practice under which the distortion of the constitutional and legal meaning by the Swedish law enforcement takes place.

Methods: the author employs a combination of general (content-analysis, case-study, formal logical method, generalization etc.) and private scientific methods (formal judicial methods, concrete sociological method of studying state and legal phenomena etc).

Results: The obtained results demonstrate that Swedish law enforcement has been given an opportunity for a broad interpretation of constitutional norms. The author identifies the distortion of the constitutional and legal meaning in provisions that provide a special status to followers of the evangelical faith, on the one hand, and a partial ban on religious and ethnic minorities from expressing their confessional affiliation, on the other. The analysis of specifics of the development of Swedish law demonstrates the possible ground of the existing constitutional inequality is the historically discriminatory nature of the legislation in relation to followers of other religious cults. These results can be used as a foundation for future research in the field of realization of religious liberty in multicultural states.

1. Introduction

For secular states, the growth of the religion's influence connected to the process of globalization, is typical in the end of the 20th - the beginning of 21st centuries [1, p. 95]. Whereas ones recognize the existence of such a trend and attempt to take it under control either by making cooperation with religious organizations [1, p. 98], or by limiting religious liberty [2, p. 547], other countries choose to ignore the changes they have faced, following the course of "blindness", typical for the political ideals of the previous century [3, p. 24-27]. Still and all, the transformation of constitutional and law-state relationships occurs in all three of the scenarios. Among the latter, the negative experience of Sweden as a state where the consequences of national policy, part of which is the so-called "ideological color blindness" in relation to the needs of ethnic and religious minorities, [4, p. 287], resulted in the polarization of society and the state losing its authority [5, p. 24], represents a particular interest. Meanwhile, the countermeasures taken by the Swedish government have formed a contradictory law enforcement practice related to realization of the right to freedom of religion, that contributes to the further escalation of religion-based conflicts.

Theoretical framework of the research

The modern legal science of Russia turns to the study of various aspects of the realization of the fundamental human right to freedom of religion in Sweden in order to understand the causes of the processes taking place in that state, and to examine the consequences about the negative effect on global security of which, the UN warns¹. Lukin R.N., noting the presence of socialist values at the core of the ideals of the Church of Sweden, speaks of the spread of a new spirituality accompanied by the growth of conservative Protestantism against the backdrop of the change in the religious composition of Swedish society and its forced secularization, finding in that the cause of its destabilization [6, p. 126-138]. Morozova L.A.,

studying the realization of human rights in multi-confessional countries, states that the kingdom has retained elements of clericalism despite the fact that the state church was abolished there in 2000, and that the legally entrenched equality of all religions doesn't correspond to reality – the Church of Sweden remains greatly influential and enjoys numerous privileges [7, p. 196]. Russian law experts also don't leave unnoticed the burning of the Quran in Scandinavian countries. Usanov D. O., analyzing the public-law aspect of ensuring the freedom of religion and conscience by Swedish law enforcement agencies, identifies gaps in the legislation, and concludes that the study of the negative experience of Sweden is relevant in the context of the implementation of amendments added to the Constitution of the Russian Federation in 2020 [8, pp. 86-89].

Foreign scholars point to the Church of Sweden's special status and the special position of Christianity in the country, which is used in the rhetoric of its ultra-right parties [9]. A whole layer of Swedish research works consists of studies dedicated to the ethnic- and racial-based intolerance: Johansson T., Andreasson J., et al. show that previously monoconfessional Sweden is failing to cope with the neo-Nazism in schools - students of other religious faiths experience insults, social isolation and physical violence from native Swedes, inter alia, because of wearing pieces of religious clothing [10]; Baroudi M., Goicolea I. et al. discovered bias against Arabic-speaking men in healthcare [11]; Sager M., Mulinary D. consider the deliberate marginalization of the Muslim population as the basis for promoting Neo-Nazi ideas that threat the values of civil society [12, p. 150-155]; Odenbring Y., Johansson T. find a connection between the arrival of migrants from Muslim countries to rural Sweden and the growth of support for parties affiliated with far-right groups in those regions [13, p. 86]; Andersson H., Berg H., et al. investigate the "flight effect" of the natives from areas where refugee and migrant populations are increasing [14]. As part of comprehensive studies in the historical discrimination against the Saami, indications of an increase in hate crimes have been found as well [15, pp. 313-348]. The Swedish National Council for

¹ Resolution 2686 (2023) URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N23/170/25/PDF/N2317025.pdf?OpenElement>

Crime Prevention also conducts researches in this field – their published reports such as «Anti-Semitic hate crimes»², «Intolerance»³, «Hate crimes in digital environments»⁴, «Afrophobic hate crimes»⁵, «Police-reported hate crimes in 2022»⁶, «Islamophobic hate crimes»⁷, prove that intolerance-based crimes are frequently committed in the country.

Relevance of the research

In this article, the author proves that the law enforcement practice in sphere of the realization of the right to religious freedom in Sweden is uneven due to the distortion of the constitutional and legal meaning of the legal norms that occurs under the influence of specifics of the historical development of Swedish law. The research gap in the named field, as well as the opportunity of using a particular state as a research object to study the consequences of elevating secularism and the protection of liberal values to the status of a new national idea⁸ without consideration of an ethnic and religious composition of its society, defines the relevance of the chosen topic.

2. Religious liberty in the history of Swedish law

The first step towards the development of religious freedom in Sweden was The Tolerance Act (1781), which Charles III adopted in spite of the

disapproval of the Swedish clergy – he described that decision as "a bold step towards the happy unification of disunited minds and the progress of the Age of Enlightenment." [16, p. 83]. As it follows from the preamble of the Riksdag's Decision on Religious Freedom (1779), the terms of which formed the provisions of the Tolerance Act, the necessity of its adoption was dictated by the "benefit for the kingdom", or, to be precise, by the urge to attract foreign specialists for the further development of the country⁹. Referring to the fact that "the free exercise of religion by foreigners wishing to immigrate to the kingdom correlates with the freedom of conscience granted in almost all prosperous and human-respecting states", the Riksdag yet introduced the following prime restrictions on the religious freedom for adherents of foreign creeds: 1) prohibition on the hold of government positions and posts; 2) prohibition on the establishment of public schools with the purpose is to disseminate religious beliefs; 3) ban of a missionary; 4) prohibition on the establishment of monasteries; 5) entry ban for monks; 6) limitation of the number of synagogues and police surveillance over them; 7) ban on public processions and ceremonies; 8) "extremely utmost handling" of those voluntarily rejected "the pure Evangelical faith"; 8) prohibition for all members of the Riksdag to convert to foreign religions. At the same time, the Tolerance Act granted migrants the right to build religious institutions, freely conduct religious services and rituals, and raise children in the religion of their parents. Interference with religious services and ceremonies of migrants, as well as insults of their beliefs and traditions, were punishable by a fine. The provisions on freedom of religion didn't apply to Swedish citizens.

One year later, in 1782, the statute known as "The Jewish Regulations" was adopted¹⁰. It granted the right to freedom of religion to those Jewish people who weren't converted to the Lutheran faith. However, it also contained a number of restrictions,

² Antisemitiska hatbrott URL:

<https://bra.se/publikationer/arkiv/publikationer/2019-05-29-antisemitiska-hatbrott.html>

³ Intolerance URL: [https://bra.se/bra-in-](https://bra.se/bra-in-english/home/publications/archive/publications/2005-06-23-intolerance.html)

[english/home/publications/archive/publications/2005-06-23-intolerance.html](https://bra.se/bra-in-english/home/publications/archive/publications/2005-06-23-intolerance.html)

⁴ Hatbrott i digitala miljöer URL:

<https://bra.se/publikationer/arkiv/publikationer/2022-12-14-hatbrott-i-digitala-miljoer.html>

⁵ Afrofobiska hatbrott URL:

<https://bra.se/publikationer/arkiv/publikationer/2022-11-24-afrofobiska-hatbrott.html>

⁶ Polisanmälda hatbrott 2022 URL:

<https://bra.se/publikationer/arkiv/publikationer/2023-12-07-polisanmalda-hatbrott-2022.html>

⁷ Islamofobiska hatbrott URL:

<https://bra.se/publikationer/arkiv/publikationer/2021-03-31-islamofobiska-hatbrott.html>

⁸ Liberal Debatt (от 25.04.2022) URL:

<https://www.liberaldebatt.se/2022/04/den-svenska-religionsfriheten-ar-inte-sa-stark-som-vi-tror/>

⁹ Riksdagsbeslut om religionsfrihet, URL:

<https://stockholmskallan.stockholm.se/post/28432>

¹⁰ Judereglementet, URL:

<https://web.archive.org/web/20191204174732/https://sv.wikisource.org/wiki/Judereglementet> (дата обращения 17.01.2024)

such as a ban on free trade, a ban on free movement, a ban on marriages with adherents of foreign creeds, a ban on free choice of profession, a ban on building synagogues anywhere except for special areas and so on.

In other words, not only the earlier Swedish legal acts, that granted religious liberty to adherents of foreign creeds, introduced strict limitations of that freedom, but also legitimized the religion-based discrimination.

Another stage of the religious freedom limitation started with the adoption of The Conventicle Act that was in force from 1726 to 1858¹¹. According to its provisions, the conduct of church services and ceremonies outside of Lutheran churches was prohibited in the country, as well as the dissemination of new teachings, and the conversion to foreign religions. The most infamous trial of that time was the case of Anna Schütze, who, along with other women voluntarily converted to Catholicism, got stripped of the Swedish citizenship and sent into exile in 1858¹².

Later, in place of The Tolerance Act and The Jewish Regulations came the Edict Concerning Adherents of Foreign Creeds and Their Exercise of Religion (1860) and the Royal Edict Concerning Adherents of Foreign Creeds and Their Religious Worship (1873). Both of them also contained several restrictions on freedom of religion, however, such punishments as denaturalization in the event of conversion to another religion were abolished, furthermore, the citizens of Sweden became officially allowed to marry adherents of other Christian denominations¹³. As a response to the exile of Swedish citizens for converting to a foreign religion, the speech of King Oscar I during the opening of the Riksdag's sessions of the years 1856-1858 played the key role, for it was narrowed down to the necessity of ensuring religious liberty in the kingdom [17, pp. 33-34]. As a result, Sweden established religious liberty for adherents of

officially recognized creeds in the country, whereas adherents of non-evangelical creeds were banned from conducting their religious rituals publicly. It was also prohibited to persuade others to convert from "the pure evangelical faith", and the conversion to religions not recognized in the country remained impossible.

In 1951, the Religious Freedom Act came in force¹⁴ that contained the following provisions: 1) the right to exercise any religion, as long as it doesn't provoke public disturbance; 2) prohibition on forced membership in any religious organization; 3) prohibition on obstruction of public religious services; 4) the registration of religious organizations became mandatory. In 2000, it was replaced by Law on Religious Communities¹⁵.

2.1 Constitutional and legal basis of religious liberty in Sweden in XX-XXI centuries.

The current Constitution of Sweden¹⁶ consists of four fundamental laws: 1) The Act of Succession; 2) The Freedom of the Press Act; 3) The Instrument of Government; 4) The Fundamental Law on Freedom of Expression. P.6. Art.1 of Ch. 2 of The Instrument of Government guarantees everyone the freedom to practice their religion alone or in the company of others, whereas Art. 2 of Ch. 1 establishes that public power shall be exercised with respect to the equality of all people as well to the liberty and dignity of a private person. Furthermore, the article obliges the Kingdom to implement a state policy to prevent all forms of discrimination. At the same time, Art. 12 of Ch. 2 prohibits the adoption of normative legal acts that prohibits the adoption of normative legal acts that diminish the rights of minorities. Also, Art. 23 of Ch. 2 can be seen as an additional guarantee as it prohibits the adoption of normative legal acts that contravene the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Restrictions apply only to the Royal family – according to Art. 4 of The Act of Succession, in case of changing of the faith or rejecting it, the family shall be excluded from all rights of succession

¹¹ Konventikelplakatet, URL:

<https://riksarkivet.se/konventikelplakatet>

¹² En katolik upptäcks i Adolfs Fredriks församling, URL:

<https://stockholmskallan.stockholm.se/post/30276>

¹³ STATENS OFFENTLIGA UTREDNINGAR, URL:

<https://lagen.nu/sou/1964:13?attachment=index.pdf&repo=soukb&dir=downloaded>

¹⁴ Religionsfrihetslag, URL: <https://lagen.nu/1951:680>

¹⁵ Lag (1998:1593), URL: <https://lagen.nu/1998:1593>

¹⁶ Grundlag, URL: <https://lagen.nu/begrepp/Grundlag>

(Amendment 1979:935¹⁷).

2.2 Specifics of realization of the right to religious freedom

For citizens, as follows from the explanation of Swedish legal scholars, freedom of religion is absolute, but only in the narrow sense defined by The Instrument of Government¹⁸, whereas courts decisions, more often than not are guided by the provisions of Art. 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms¹⁹, which allows such limitations. The Deputy Secretary General of the Swedish Evangelical Alliance Rudestrand J., partly shares that point of view – in regards with the recent law enforcement practice in the Kingdom, he considers tolerance, multiculturalism and the absolute religious freedom, being nominal, which can be proved by the existence of limitation of the right to religious freedom in the spheres of education, labor, medical care and etc²⁰. With his opinion, correlates the report of United Nations Special Rapporteur on freedom of religion or belief, Ghanesa N., that mentions the increased role of religion in the previously monoconfessional Swedish society – whilst remaining underestimated by the Swedish government, it poses a threat to the exercise of the right to freedom of religion as well as it contributes to the escalation of conflicts based on religious intolerance, and increases the level of public distrust²¹. The Rapporteur reports of a data concealment in the investigation into the effectiveness of the Discrimination Act, which could be seen as aimed at protecting religious freedom, –

along with the lack of court rulings in these matters, it makes it difficult to evaluate the scale of the crisis. Ghanesa N., also adds, that each municipality interprets and applies the constitutional norms in its own way. The Christian Council of Sweden also points to the lack of uniformity in the law enforcement practice, using as an example the restrictions of public gatherings during the pandemic, the severity of which varied depending on the municipality²².

The differences of opinion in the interpretation of constitutional norms are present among Swedish parliamentarians as well that follows from the The Constitution Committee's reports 2021/22:KU29²³ and 2022/23:KU26²⁴. In 2021, the Riksdag supported the Motion 2021/22:2485 that provided a complete ban on wearing the hijab and niqab in pre-primary and primary schools. However, one year earlier, on 17.11.2020, the Administrative Court of Malmö (cases #6754-19 and #113-20) annulated the decisions of the municipal boards of Staffanstorp (29.05.2019) and Skurup (16.12.2019) to ban religious coverings, due to their contradiction with the Constitution and the European Convention on Human Rights. The municipalities' attempts to appeal that court decision didn't succeed, and the Gothenburg Court of Appeal in two rulings on 23.06.2021 left it in force (cases #7172-20 and #7171-20). The Motion 2021/22:2526 to the Riksdag was also found contradictory to the Constitution: the Motion's purpose was to ban calls to prayer, and the motivation given was that only Christianity had great significance for the culture of Sweden, whereas Islam had historically never had such a status, therefore Islamic calls to prayer should be seen as a violent propaganda, not an exercise of religious liberty. And even earlier, Växjö' citizens tried to prevent prayer

¹⁷ Successionsordning (1810:0926), URL: <https://lagen.nu/1810:0926#P451>

¹⁸ Dagens juridisk (от 21.02.2017), URL: <https://www.dagensjuridik.se/nyheter/abortvagrarn-religios-kladse-och-obligatorisk-skolundervisning-sa-fungerar-religionsfriheten/>

¹⁹ The European Convention on Human Rights, URL: <https://www.coe.int/ru/web/compass/the-european-convention-on-human-rights-and-its-protocols>

²⁰ Liberal Debatt (от 25.04.2022)
URL: <https://www.liberaldebatt.se/2022/04/den-svenska-religionsfriheten-ar-inte-sa-stark-som-vi-tror/>

²¹ U.N. Special Rapporteur on freedom of religion or belief, URL: <https://www.ohchr.org/sites/default/files/documents/issues/religion/2023-10-19-EOM-sr-religion.docx>

²² Yttrande över promemorian Covid-19-lag, URL: <https://www.regeringen.se/contentassets/da9302cef68945cf8e9e1a72f33f97e7/sveriges-kristna-rad.pdf>

²³ 2021/22:KU29, URL: https://www.riksdagen.se/sv/dokument-och-lagar/dokument/betankande/fri-och-rattigheter-m.m_h901ku29/html

²⁴ 2022/23:KU26, URL: https://www.riksdagen.se/sv/dokument-och-lagar/dokument/betankande/fri-och-rattigheter-m.m_ha01ku26

calls too, despite the fact they were permitted by the municipal police on 08.05.2018. The Administrative Court of Malmö (cases #5953-18, #6390-18, #6400-18, #6407-18, #6568-18) and The Gothenburg Court of Appeal (cases # 5873-18 и #5907-18) ruled out that calls to prayer don't contradict the provisions of Constitution on the religious liberty. Nevertheless, the Riksdag made positive decisions on the Motions 2020/21:254, 2021/22:216, 2022/23:2271, aimed at additional protection of the interests of the Christian population and making cooperation in certain areas between the state and Christian religious organizations. That was the backdrop against which, the Quran-burning performances and debates about their legality continued. For instance, the Interpellation 2022/23:314 to the Minister for Justice Strömmer G. states that they provoked conflicts between the police, the prosecutor's office and the court²⁵. Such conflicts indeed took place: according to the ruling of the Administrative Court of Stockholm on 04.04.2023 (case #2741-230), in February 2023 Stockholm police refused permission to hold another Koran-burning event (at the Turkish and Iraqi embassies in Stockholm), considering it a threat to the safety of citizens, a violation of public order and a likelihood of harm to the interests of the country and national security. The police's refusal was recognized illegal, and the Police Department's attempt to appeal this decision to the Stockholm Court of Appeal (cased #2079-23 and #2080-23) never succeeded – on 12.07.2023, the Court left the ruling of the previous instance in force as the reasons listed by the Police Department were found not sufficient enough to refuse the holding of protests, and didn't meet Art. 10 Ch. 2 of the Public Order law (1993:1617)²⁶. The imposition of criminal punishment for yet another action that involved the destruction of the Quran deserves a particular attention: a video of the

performance shared online was accompanied by music associated with the Christchurch Mosque terror attack, so on 12.10.2023 Linköping District Court decided that the aim of that action wasn't to criticize the Islam as a religion, but to threaten the Muslims (case #B-1406-21). It's necessary to mention that up until 1970, in Sweden, there was a criminal liability for performing such actions because they were considered a public harassment of a religious organization – p. 9. Ch. 16 of the Criminal Code. Guilty verdict in case #B-1406-21 likely was passed basing on the amendment to Art. 8 Ch. 16 of the Swedish Criminal Code, which prescribes a criminal punishment in the form of a fine or imprisonment for those found guilty of disseminating through statements or other forms of communication, threats or expressions of disrespect towards a group of people basing on their race, skin color, national or ethnic origin, gender, religious and other beliefs, at the same time, the aggravating factor here is the dissemination of such a harassment among a large number of people in a way that helps attract significant attention to it²⁷. Obviously, the Court didn't see the publication of the recording on the Internet as an aggravating factor, hence, sentencing the accused to a suspended sentence despite the fact that in recent years, the Internet and social media networks have been used to provoke a reaction from a large number of people [18, p. 254]. It should be noted that the official webpage of the Swedish court system doesn't disclose the name of the accused or the article under which the guilty verdict was passed²⁸, therefore, we can only assume that in this case Art. 8 Ch. 16 of the Swedish Criminal Code was in use. In the aforementioned report, Ghanea N., characterizes this practice as a deliberate concealment of statistics – “no data, no problem”²⁹.

²⁵ INTERPELLATION TILL STATSRÅD, URL:
<https://data.riksdagen.se/fil/2C975A73-91A7-4D47-8AB0-650AA8341445>

²⁶ Ordningsslag, URL:
https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/ordningslag-19931617_sfs-1993-1617/#K2

²⁷ Brottsbalk, URL:

https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/brottsbalk-1962700_sfs-1962-700/

²⁸ Dom i mål om hets mot folkgrupp, URL:

<https://www.domstol.se/en/nyheter/2023/10/dom-i-mal-om-hets-mot-folkgrupp/>

²⁹ U.N. Special Rapporteur on freedom of religion or belief, URL:

<https://www.ohchr.org/sites/default/files/documents/issues/religion/2023-10-19-EOM-sr-religion.docx>

3. Conclusion

The obtained results demonstrate that the Swedish law enforcement practice in the sphere of realization of the right to religious freedom isn't uniform due to the opportunity for a broad interpretation of constitutional norms provided to the Swedish law enforcer, where such an interpretation is often just a subjective view of their semantic meaning and doesn't take into account the new social, political and legal realities [19, p. 10] such as changes in the religious and ethnic composition of society. The distortion of the constitutional and legal meaning of the provisions can be observed in the legal norms that grant a special status to adherents of the evangelical faith on the one hand, and a partial ban for religious and ethnic minorities to express their religious identity on the other. The analysis of the specifics of the development of Swedish law reveals that the ground for the existing constitutional inequality is the historically discriminatory nature of legislation in relation to followers of other religious creeds, not typical for the Kingdom. This can be confirmed by the regular attempts to submit motions to the Riksdag that contain provisions on limiting the rights of the Muslim population, as well as by the projects giving an additional protection to Christian cultural heritage and the interests of the Christians already adopted by Swedish parliamentarians. On top of that, a rather loose interpretation of freedom of speech is also found among the influential Swedish religious figures, who insist on recognition of insulting the feelings of believers as part of its realization [20]. Arguably, the previously created image of Sweden as one of the most secularized states [21, p. 57] doesn't correspond to reality and is supported by the violation of constitutional rights and freedoms of certain groups of its population. It resulted in the destabilization of society, massive violations of public order, an increase in hate crimes, conflicts between the prosecutor's office and the police, and a decrease in trust in state institutions. In search for an additional confirmation of the article's findings, one can turn once again to those of the Russian studies

that emphasize the central place of protecting the rights and freedoms of the individual in the constitutional acts of Sweden and the desire of the legislator to guarantee them as fully as possible [22, pp. 241-243], and to research works of the leading Swedish law scholars that prove that the decriminalization of blasphemy, once considered the absolute victory of democratic values [23, pp. 12-27], accompanied by the secularization of society, and aimed at developing a new multicultural and multireligious reality [24, pp. 86-87], in the 21st century, has led the Kingdom to the crisis that requires an immediate resolution [25, pp. 55]. Besides, some researchers also remind that for Sweden mixing ideology with religion in order to form a national identity isn't a novelty [26, p. 173] – the current presence of such a mixture is indicated by the motions submitted to the Riksdag on a frequent basis.

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